



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

February 21, 2006

Certified Return Receipt
7099 3400 0016 8894 6239

Mr. Curtis Larkin
Gypsum Resource Development, Inc.
1947 North 2050 East
Layton, Utah 84040

Subject: Proposed Assessment for Violation #MN-2006-03-01, Gypsum Resource Development, White Cap #8 Mine, S/015/047, Emery County, Utah

Dear Mr. Larkin:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced Notice of Violation. The violation was issued by Division Inspector, Paul Baker, on February 3, 2006. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violation as follows:

- MN-06-03-01- Violation 1 of 1 \$506

The enclosed worksheet specifically outlines how the violation was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty. If the violation has not been abated at the time of the proposed assessment, the assignment of good faith points cannot be made. If you feel that you are eligible for good faith, you should supply relevant information to the assessment officer within 15 days of the violation abatement date so that it can be factored into the final assessment.

Otherwise, under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Daron R. Haddock
Assessment Officer

DRH:vs

Enclosure: Worksheet

cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.

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**WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program**

COMPANY / MINE Gypsum Resource Development, Inc./ White Cap #8 PERMIT S/015/047

NOV / CO # MN-2006-03-01(1)

VIOLATION 1 of 1

ASSESSMENT DATE February 21, 2006

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Environmental harm and injury to the public from an unreclaimed mine site.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

*** *An Operator is required to reclaim a mine site after 5 years of continued suspension. Leaving a site unreclaimed, increases the likelihood of sedimentation, fugitive dust, and danger to the public. The inspector indicated that some fugitive dust has already left the site and there is some likelihood of continued damage, if the site is left abandoned. Without reclamation is it likely that environmental harm will ensue. At this point it appears that there is more potential than actual harm, therefore I am assessing points in the low end of the "Likely" category.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that there is mainly potential for damage due to the unreclaimed nature of the site. He did indicate that there was some damage to air quality as a result of fugitive dust. This damage is considered temporary and the site could be reclaimed. Damage is assessed in the lower part of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 15

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the permittee had been notified in a letter dated November 9, 2005 that reclamation needed to be completed by January 1, 2006. The permittee was also notified by the BLM that reclamation was required. No action was taken. The Operator was unsure whether he had the right to reclaim the site since the claims were held by another person. It is understandable that there could be some confusion regarding the rights of the permittee versus the rights of the claim holder, but no action was taken by the permittee to resolve this situation. This indicates indifference to the rules or lack of reasonable care. Points are assessed in the middle of the negligence range.*

GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- | | | |
|---|---|-------------|
| X | Rapid Compliance | -11 to -20* |
| | (Permittee used diligence to abate the violation) | |
| X | Normal Compliance | -1 to -10* |
| | (Operator complied within the abatement period required) | |
| X | Extended Compliance | 0 |
| | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) | |
| | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan) | |

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

*** *The abatement has not yet been completed, so good faith points cannot be awarded at this time. This category will be looked at again after the abatement has been completed. Points will be awarded depending on how quickly the abatement is met.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MN-06-03-01(1)</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>15</u>
III.	TOTAL NEGLIGENCE POINTS <u>8</u>
IV.	TOTAL GOOD FAITH POINTS <u>-</u>
	TOTAL ASSESSED POINTS <u>23</u>
TOTAL ASSESSED FINE <u>\$ 506</u>	